

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

LEMUEL L. LILLY,)	
)	
Petitioner,)	
)	
vs.)	CIVIL NO. 05-728-GPM
)	
PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

MURPHY, Chief District Judge:

Petitioner, currently incarcerated in the Big Muddy River Correctional Center, brings this habeas corpus action pursuant to 28 U.S.C. § 2254 to challenge the constitutionality of his confinement.

Before further proceedings are ordered, a few words about the named respondent are necessary. Petitioner names as the respondent the People of the State of Illinois. The only proper respondent in a collateral attack is Petitioner's custodian. *See* Rule 2(a) of the Rules Governing Section 2254 Cases in the United States District Courts. Because Petitioner is incarcerated, the only proper respondent is Warden Gregory Lambert. The People of the State of Illinois is **DISMISSED with prejudice** as a party and should not appear as a litigant in any future § 2254 case except under the conditions specified in Rule 2(b). Warden Gregory Lambert is **SUBSTITUTED** as respondent.

IT IS HEREBY ORDERED that Respondent shall, within twenty-three (23) days of receipt of this application for Writ of Habeas Corpus, answer and show cause why the writ should not issue.

Service upon the Illinois Attorney General, Criminal Appeals Bureau, 100 West Randolph,

12th Floor, Chicago, Illinois 60601, shall constitute sufficient service.

IT IS FURTHER ORDERED that pursuant to Local Rule of the United States District Court for the Southern District of Illinois 72.1(a)(2), this cause is referred to a United States Magistrate Judge for further pretrial proceedings.

IT IS FURTHER ORDERED that this entire matter be **REFERRED** to a United States Magistrate Judge for disposition, as contemplated by Local Rule 72.2(b)(2) and 28 U.S.C. § 636(c), *should all the parties consent to such a referral.*

IT IS SO ORDERED.

DATED: 10/31/05

s/ G. Patrick Murphy
G. PATRICK MURPHY
Chief United States District Judge